BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2013-55-C

IN RE: South Carolina Telephone Coalition Petition to Modify Alternative Regulation Plans Filed Pursuant to S.C. Code Section 58-9-576(B) to Take Into Account Recent Action by the Federal Communications Commission	))))))	**BRIEF OF SPRINT**

INTRODUCTION

The issue before the Commission is straightforward – when a carrier of last resort ("COLR") raises its rate for basic local exchange service, what effect does that rate change have on the size of the South Carolina Universal Service Fund ("USF")?

Sprint Communications Company L.P. ("Sprint") and the South Carolina Cable Television Association ("SCCTA") demonstrated to the Commission that the size of the USF must change when the rate for basic local exchange service changes, because the size of the USF is calculated based in part on that rate. Simply put, as the rate for basic local exchange service moves closer to its cost as defined by previous Commission rulings, the size of the USF, and the amount of subsidy defined by the USF, decreases. As a result, the South Carolina Telephone Coalition ("SCTC") members whose rates increased must reduce their USF disbursements in an amount equal to the additional revenue they receive by virtue of their new rates.

Contrary to the arguments of the SCTC member companies, with respect to the question at hand Sprint and the SCCTA do not take issue with anything this Commission has done previously in connection with the USF. On the contrary, a straightforward application of the

Commission's previous orders applying the plain language found in Section 58-9-280 requires an adjustment to the size of the USF to reflect this change in rates.

APPLICABLE LAW

> The size of the USF shall be determined by the commission and shall be the sum of the difference, for each carrier of last resort, between its costs of providing basic local exchange services and the maximum amount it may charge for the services.
>
> S.C. Code Ann. § 58-9-280(E)(4).

BACKGROUND

Historically, especially in rural areas where costs tend to be higher, basic local exchange service has been priced at a rate below the cost of providing that service. Prior to 1996, local exchange carriers ("LECs") subsidized local exchange service by pricing rates for other services offered by the LECs (e.g., access charges) above their costs. These subsidies were considered *implicit*, because the amount of subsidy was built into other rates. Commission Order 2001-419 at pp. 26-27.

In 1996, Federal and State law purported to open the local exchange telephone service market to competition. In an environment where competition for local exchange services might erode the implicit subsidies supporting basic local exchange service, an alternative method for subsidizing basic local exchange service was developed.

Accordingly, the General Assembly gave the Commission a framework to transition the basic local exchange service subsidy support mechanism: "at the State level, S.C. Code Ann. § 58-9-280(E) requires that the Commission establish a USF to continue South Carolina's commitment to universally available basic local exchange telephone service at affordable rates and to replace implicit subsidies with explicit support." Order No. 2001-419, p. 27.

The statute memorializes that principle in a very straightforward way, by defining the universe of explicit support available to COLR as they transition away from the use of implicit subsidies:

> The size of the USF shall be determined by the commission and shall be the sum of the difference, for each carrier of last resort, between its costs of providing basic local exchange services and the maximum amount it may charge for the services. S.C. Code Ann. § 58-9-280(E)(4).

The "size of the USF" or the "maximum high cost support" is equal to the total amount of explicit subsidy available to support the provision of basic local exchange service once all implicit subsidies have been replaced. At the same time, the "size of the USF" also represents the total amount of implicit subsidy built into LEC rates to be transitioned (dollar-for-dollar) to explicit support. As a result, when and if the USF is fully implemented, the LECs will support basic local exchange service exclusively by means of explicit support (USF disbursements), after all implicit support built into other rates has been removed.

As the Commission is aware, however, to date the LECs have not removed all implicit subsidy from their rates, and continue to receive *both* implicit support and explicit support for basic local exchange service. The "phase-in" approach to the USF authorized by the Commission demonstrates the method through which implicit subsidies and explicit support co-exist as the USF is implemented: "[i]n order to receive funding beyond the initial step, any local exchange carrier applying for further reductions under the State USF must file detailed cost data with the Commission *clearly demonstrating that implicit support exists in the rates that are proposed to be reduced*." Commission Order 2001-419, p. 35. (Emphasis added). In other words, any explicit support requires the removal of implicit subsidies on a dollar-by-dollar basis.

Accordingly, since no LEC has drawn any more than one-third of the "total state USF" in as explicit support, an amount equal to at least two-thirds of the "total state USF" remains embedded in LEC rates in the form of implicit subsidy. *See* "Guidelines for South Carolina Universal Service Fund (USF)," Issued August 29, 2001 as Exhibit A to Commission Order 2001-996. So, today, the combination of explicit support and implicit subsidies fully support the cost of basic local exchange service.

ARGUMENT

I. An Increase in the Maximum Rate for Basic Local Exchange Service Decreases the "Size of the USF".

Increasing the maximum rate for basic local exchange service, as the LECs have done in this case, results in a decrease in the "size of the USF" per the plain language of Section 58-9-280 and the USF Orders of the Commission. Again, Section 58-9-280(E)(4):

> The size of the USF shall be determined by the commission and shall be the sum of the difference, for each carrier of last resort, between its costs of providing basic local exchange services and the maximum amount it may charge for the services.

As the "maximum amount" charged by a COLR moves closer to its "costs of providing basic local exchange services," as determined by previous Commission Orders, the "difference" between those two numbers decreases in an amount equal to the rate increase.

II. A Decrease in the "Size of the USF" Decreases The Amount of Subsidy to Which a COLR is Entitled.

Accordingly, any subsidy for the support of basic local exchange service to which a COLR is entitled decreases as the "size of the USF" decreases (due to an increase in its rate for basic local exchange service). As discussed at the oral argument in this matter, if the rate for basic local exchange service were equal to the costs of basic local exchange service, then the "size of the USF" would be zero, and a COLR would not be entitled to any subsidy to support its provision of basic local exchange service. More particularly in this case, the "size of the USF" has decreased by an amount equal to the increase in the basic local exchange service rate. Put another way, any COLR raising its basic local exchange rate no longer requires subsidy by the same amount, because the service's own revenues produce an amount closer to the COLR's cost, as defined by previous Commission Orders, of providing that service.

III. Those COLRs Increasing Their Rates for Basic Local Exchange Service Must Reduce Their Disbursements from the USF.

With respect to the USF, the only variable that has changed is that these COLRs are now charging a higher rate and receiving more revenue for basic local exchange service. Their "costs of providing basic local exchange services" approved by this Commission have not changed.[1] The disbursements the LECs receive from the USF have not changed, and the LECs have removed no implicit subsidies from their rates. The Commission, following the requirements of S.C. Code Ann. § 58-9-280, calculated the "size of the USF" for these companies based upon their previous, lower rates for basic local exchange service. As a result, these companies must reduce the amount of explicit support they receive from the USF in order to reflect this change in the "size of the USF."

The fact that these companies have drawn something less than one-third of the total *explicit* support to which the USF would entitle them does not demonstrate otherwise. This argument overlooks the *implicit* subsidies these companies receive to support basic local exchange service. As described above, the "size of the USF" or the total support for basic local exchange service received by the LECs is equal to the sum total of all explicit support received by the LECs *and* those implicit subsidies built into other rates. In other words, regardless of how much a LEC receives in explicit support, a corresponding amount of implicit subsidies exists.

[1] None of these LECs has sought approval from this Commission to adjust the "costs of providing basic local exchange service" used to determine the "size of the USF." As such, the LECs' claim that these costs "are actually higher now" (Transcript of Oral Argument, p. 34, line 11) is immaterial unless and until these LECs file for approval of those costs, and the Commission approves them, pursuant to S.C. Code Ann. § 58-9-280(E)(6).

CONCLUSION

Sprint's customers have paid a significant amount into the USF since its inception, and the total USF distributions to the LECs to date exceed $500 million. The Commission must ensure that the total support does not exceed that set out in S.C. Code Ann. § 58-9-280 and this Commission's Orders. Sprint asks that the Commission apply the applicable statutory provisions and its Orders, adjust the "size of the USF" for these companies to reflect the changes in their rates, and require the LECs to reduce their USF distributions accordingly.

Respectfully submitted,

ADAMS AND REESE LLP

BY: s/John J. Pringle, Jr.
John J. Pringle, Jr., Esquire
1501 Main Street, 5th Floor
Columbia, SC 29201
(803) 343-1270
jack.pringle@arlaw.com

Attorneys for Sprint Communications Company L.P.

November 22, 2013
Columbia, South Carolina

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2013-55-C

IN RE:

South Carolina Telephone Coalition	)	
Petition to Modify Alternative	)	
Regulation Plans Filed Pursuant to S.C.	)	**CERTIFICATE OF SERVICE**
Code Section 58-9-576(B) to Take Into	)	
Account Recent Action by the Federal	)	
Communications Commission	)	

This is to certify that I have caused to be served this day, the Brief filed by Sprint Communications Company L.P., via first class mail service, postage prepaid to the following:

F. David Butler, Esq.
Senior Counsel
South Carolina Public Service Commission
PO Box 11649
Columbia, South Carolina 29211

M. John Bowen, Jr., Esq.
Margaret M. Fox, Esq.
McNair Law Firm, P.A.
P.O. Box 11390
Columbia, South Carolina 29202

Nanette S. Edwards, Esq.
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, South Carolina 29201

Frank Rogers Ellerbe, III, Esq.
Bonnie D. Shealy, Esq.
Robinson McFadden & Moore, PC
PO Box 944
Columbia, South Carolina 29202

Scott Elliott, Esq.
Elliott & Elliott, P.A.
1508 Lady Street
Columbia, South Carolina 29201

Patrick W. Turner, Esq.
BellSouth Telecommunications, LLC d/b/a AT&T South Carolina
1600 Williams Street
Suite 5200
Columbia, South Carolina 29201

C. Jo Anne Wessinger Hill, Esq.
Steven W. Hamm, Esq.
Richardson Plowden and Robinson, P.A.
Post Office Drawer 7788
1600 Marion Street
Columbia, South Carolina 29202

Jeanne W. Stockman, Counsel
United Telephone Company of the Carolinas, LLC
d/b/a CenturyLink
14111 Capital Boulevard
Mailstop: NCWKFR0313
Wake Forest, North Carolina 27587

John M.S. Hoefer, Esq.
Benjamin P. Mustian, Esq.
Willoughbly & Hoefer, PA
PO Box 8416
Columbia, South Carolina 29202

Burnet R. Maybank, III, Esq.
Nexsen Pruet
1230 Main Street, Suite 700
Columbia, South Carolina 29201

s/ John J. Pringle, Jr.
John J. Pringle, Jr.

November 22, 2013
Columbia, South Carolina